



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 175677

PRELIMINARY RECITALS

Pursuant to a petition filed on July 21, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on September 13, 2016, by telephone.

The issue for determination is whether the respondent correctly closed petitioner's FS case.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, and had an ongoing FS case.
2. On May 18, 2016, the respondent completed a "Front End Verification" when it determined that petitioner's expenses exceeded her income.

3. The respondent established that petitioner's monthly earned income at the time of the Front End Verification was \$3,495.58, her dependent care expenses were \$2,100.00, her rent was \$1,275.00, and her utilities were \$150.00. Her total budgeted expenses were \$3,525.00.
4. Five written statements purportedly from petitioner's provider demonstrate disparate signatures; two of the statements have signatures that match a [REDACTED] identification card for the provider, while three signatures do not match.
5. On June 17, 2016, the respondent notified petitioner in writing that her FS would terminate as of July 1, 2016, due to income over the program limit.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, §4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, §4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, §4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, §4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(6); FS Handbook, §4.6.7. The maximum shelter deduction is \$490 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. FS Handbook, §§8.1.3. and 4.6.7.1.

In this case, the respondent sought to investigate the expenses claimed by the petitioner because the monthly expenses exceeded the petitioner's gross income. The respondent was provided faxed statements allegedly signed by petitioner's child care provider, which confirmed that petitioner's child care liability was \$525.00 weekly. The provider is not a licensed provider. The respondent took issue with the glaring discrepancy in signatures attached to these written statements. The respondent also provided a [REDACTED] identification card with states the provider's name, and shows her signature. That identification card matches a couple of the written statements, but not others.

The respondent then contacted petitioner to get contact information for the provider. Petitioner provided this information, and the respondent attempted to call the provider to clear up this discrepancy. The respondent's electronic Case Comments reflect that the provider was called twice on June 13, 2016, and left a voicemail message each time. When the provider did not return the call, the respondent proceeded to end petitioner's FS benefits.

The petitioner claims that her provider did get a call, but that no contact information was left for a return call. This really defies logic. Even assuming that this is true, the petitioner was aware that the respondent was questioning her child care expenses and aware that the respondent had called the petitioner. Any call from the respondent would have at least merited a call to petitioner's worker, whose number was presumably available to the petitioner. Coupled with the obviously disparate signatures on the child care verifications, I find that the respondent reasonably terminated petitioner's FS benefits.

I note that this Decision does not serve to bar the petitioner from applying for FS benefits anew at any time that petitioner is eligible for those benefits.

CONCLUSIONS OF LAW

The respondent correctly determined that petitioner's claimed child care expenses were questionable and therefore did not deduct those expenses from her income.

THEREFORE, it is **ORDERED**

The petitioner's appeal is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 17th day of October, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 17, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability